

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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RACHEL LEAH GREENWALD, as
Administrator of the Estate of ISRAEL
GREENWALD, deceased, and RACHEL
LEAH GREENWALD, MICHAEL
WEINSTEIN, and Yael PERLMAN,
individually,

Plaintiffs,

- against -

CITY OF NEW YORK, NEW YORK CITY
POLICE DEPARTMENT, STEPHEN
CARACAPPA, and LOUIS EPPOLITO,

Defendants.
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DEARIE, District Judge.

ORDER

06 CV 2864 (RJD) (JMA)

Plaintiffs are the widow and surviving children of Israel Greenwald, a Long Island jeweler missing from 1986 until 2005, when his body was discovered under a Brooklyn parking garage. Plaintiffs allege that the City, the NYPD, and former NYPD officers Stephen Caracappa and Louis Eppolito are responsible for Greenwald's 1986 murder.

In answering plaintiffs' amended complaint, the City asserts that the statute of limitations and municipal notice-of-claim requirements bar plaintiffs' state law claims. Plaintiffs maintain that their state law claims did not accrue until they discovered Mr. Greenwald's body in 2005. Plaintiffs moved to strike the City's affirmative defenses relating to the statute of limitations and notice-of-claim requirements. In a Report and Recommendation dated July 19, 2012, Magistrate Judge Joan Azrack recommends that I deny plaintiffs' motion.

The Court has reviewed the Report and Recommendation and the timely objections filed by plaintiffs. The recommendation is adopted, and the motion to strike is denied.

SO ORDERED.

Dated: Brooklyn, New York
January 28, 2013

/s/ Judge Raymond J. Dearie


RAYMOND J. DEARIE
United States District Judge